

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO, WESTERN DIVISION

ANDREA BRENT,

Plaintiff,

VS.

MIDLAND FUNDING, LLC and MIDLAND
CREDIT MANAGEMENT, INC.,

Defendants.

[illegible]

Case No. _____

Honorable _____

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**NOTICE OF REMOVAL UNDER
28 U.S.C. § 1441 (FEDERAL QUESTION)**

Defendant Midland Funding, LLC (“Midland Funding”) and Midland Credit Management, Inc. (“MCM”) (also collectively “Defendants”) hereby gives notice that this action is removed from the Sandusky Municipal Court, for the County of Erie, Ohio to the United States District Court for the Northern District of Ohio, pursuant to 28 U.S.C. §§ 1441 and 1446. In support thereof, and for the purpose of removal only, Midland Funding and MCM states as follows:

1. On or around April 17, 2008, Midland Funding commenced an action against Andrea Brent in the Sandusky Municipal Court for the County of Erie, Ohio, Case No. CVF 0800975.

2. On May 15, 2008 Brent filed a counterclaim class action against Defendants Midland Funding and MCM.

3. On June 13, 2008, the case was removed to the U.S. District Court for the Northern District of Ohio, Case No. 3:08-cv-01434 (*Midland Funding v. Brent v. Midland Credit Management, Inc.*), and assigned to the Honorable David Katz.

4. On May 17, 2011, the case was remanded to Sandusky Municipal Court. (Dkt. #156.)

5. On June 17, 2011, the Sandusky Municipal Court entered an Order dismissing Midland Funding's claim against Brent in Sandusky Municipal Court.

6. Thereafter, the Sandusky Municipal Court ordered the realignment of the parties in their present form.

7. Ms. Brent also filed a Motion for Leave to File an Amended Complaint, which was granted by the Sandusky Municipal Court.

8. Plaintiff Brent served a copy of the Amended Complaint on Defendants Midland Funding and MCM via first class mail, which was received on June 21, 2011.

9. Copies of all process, pleadings, and orders served upon Midland Funding and MCM in such action are contained in Exhibit A filed herewith, and no other proceedings have been had, pleadings filed, or orders entered after the above-referenced remand.

10. The parties to this action are as follows:

A. Plaintiff Andrea Brent is a citizen of the State of Ohio.

B. Defendant MCM is a Kansas corporation with its principal place of business in San Diego, California.

C. Defendant Midland Funding, LLC is a Delaware corporation with its principal place of business in San Diego, California.

11. Plaintiff alleges violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§1692 *et seq.*, the Ohio Consumer and Sales Protection Act ("OCSPA") against Defendants Midland Funding and MCM in her Amended Complaint.

12. This Court has original jurisdiction over the subject action pursuant to 28 U.S.C. § 1331, since there are federal questions.

13. As alleged, this suit falls within the purview of the FDCPA, which thus supplies the federal questions.

14. Pursuant to 28 U.S.C. §§ 1441, *et seq.*, this cause may be removed from the Sandusky Municipal Court for the County of Erie to the United States District Court for the Northern District of Ohio.

15. In addition, Plaintiffs allege state law claims against Midland Funding and MCM. However, because the federal and non-federal claims all derive from a common nucleus of operative facts, this Court has supplemental jurisdiction over the non-federal claims alleged against Midland Funding and MCM. 28 U.S.C. § 1367(a).

16. Alternatively, if the federal claims are deemed to be separate and independent from the non-federal claims, as opposed to arising out of a common nucleus of operative facts, Midland Funding and MCM invokes the Court's jurisdiction under 28 U.S.C. § 1441(c) as grounds for removal of the entire state action to this Court.

17. This notice of removal is filed with this Court within 30 days after receipt by the Defendants, through service or otherwise, of a copy of an amended pleading from which it may first be ascertained that the case is one which is or has become removable. *See, e.g. Hrivak vs. NCO Portfolio Management Inc.*, 723 F. Supp. 2d 1020 (N.D. Ohio 2010).

18. Notice of this removal has been filed with the Sandusky Municipal Court for the County of Erie, Ohio and upon all parties. A copy of the Notice of Filing of Removal is attached as Exhibit B.

WHEREFORE, Midland Funding and MCM, by counsel, remove the subject action from the Sandusky Municipal Court for the County of Erie, Ohio to the United States District Court for the Northern District of Ohio.

Respectfully submitted,

DYKEMA GOSSETT, PLLC

Dated: June 29, 2011

By: /s/ Theodore W. Seitz
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